

REMARKS

Claims 1-4 are pending in the present application. Claim 1 is amended. Reconsideration of the claims is respectfully requested.

Amendment to claim 1 was made to clarify the elements of the claim. No new matter was added. Specifically, the element concerning the distribution of game cards free of charge is supported by the specification on page 7, lines 3-5, which states that the present invention does not involve an actual wager (i.e. fee).

Amendments to the specification were made to correct typographical errors and clarify elements of the invention. No new matter has been added.

I. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Kail (US Pat. No. 6,102,797). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994).

Claim 1, as amended, recites:

1. A game of chance to be played in conjunction with sport contests, the game comprising:

a plurality of pre-printed game cards each marked with a common plurality of sport contests scheduled within a designated time period;

each of said game cards individually pre-printed with a unique set of predicted final statistics corresponding to said plurality of sport contests;

wherein the game cards are distributed free of charge;

determining actual final statistics of said sport contests; and
awarding a prize corresponding to a game card if at least one predicted final statistics pre-printed on that game card for a sport contest is identical to the actual final statistics of said sport contest.

With regard to Claims 1-4, the Office Action states:

Regarding claim 1

Kail teaches a game of chance played in conjunction with sports contests, a plurality of pre-printed game cards with sports events and predicted outcomes (see abstract, figure 1 & col. 2, lines 40-43), determining actual statistics of the sports event (col. 2, lines 44-48) and the awarding of prizes col. 3, lines 46-67).

Kail does not teach all of the elements of claim 1. Specifically, the game cards in the Kail invention require the participants to fill out the predicted final outcomes of the sporting events. In contrast, the final outcomes in the present invention are not selected by participants but instead are pre-printed on the game cards.

Furthermore, the game cards in the present invention are distributed free of charge, whereas Kail involves participants paying a fee (wager) to participate in the game. As a result, Kail may violate anti-gambling laws in some jurisdictions. Because the present invention recited in claim 1 does not involve a participation fee, it is less likely to encounter the same possible legal restriction as Kail.

Since claims 2-4 depend from claim 1, and thus include all of the limitations of claim 1, they are distinguished from Kail for the same reasons explained above regarding claim 1.

Therefore, it is respectfully asserted that the rejection of claims 1-4 under 35 USC § 102(b) has been overcome and should be withdrawn.

Conclusion

It is respectfully submitted that the claims are now in condition for allowance and are patentable over the cited prior art references.

The examiner is invited to call the undersigned or Colin P. Cahoon at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application. The Commissioner is hereby authorized to charge any additional payment that may be due or credit any overpayment to Deposit Account No. 50-0392.

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Respectfully submitted,

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